

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION

DOCKET NO:

04-CV-11467-MAP

**DOUGLAS DYNAMICS, LLC, d/b/a WESTERN  
PRODUCTS,**

**Plaintiff,**

v.

**B & P SUPPLY, INC.,**

**Defendant**

**DEFENDANT'S MOTION  
TO VACATE ORDER FOR  
SUMMARY JUDGMENT  
AND TO STRIKE THE  
AFFIDAVIT OF  
PETER DUS**

NOW comes Jack E. Houghton, Jr., counsel for the Defendant B & P Supply, Inc. in the above entitled matter, and moves this Honorable Court to VACATE the Order for Summary Judgment and To Strike the Affidavit of Peter Dus entered against the Defendant this past Monday, October 17, 2005. For reasons, through mistake and inadvertence, counsel for the Defendant had not correctly diaried the date and time for the hearing on the Plaintiff's Motion for Summary Judgment and to Strike the Affidavit of Peter Dus. Counsel submits an Affidavit in Support of this Motion.

WHEREFORE, counsel for the Defendant respectfully requests this Honorable Court to VACATE the Order for Summary Judgment and To Strike the Affidavit of Peter Dus entered against the Defendant on October 17, 2005.

B & P Supply, Inc., Defendant  
By Its Attorney:

Dated: October 18, 2005

Jack E. Houghton, Jr.  
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Pittsfield, MA 01201  
(413) 447-7385  
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**CERTIFICATE OF SERVICE**

I, Jack E. Houghton, Jr. hereby certify that on this 18<sup>th</sup> day of October, 2005, I sent a copy of the above Defendant's Motion To Vacate Order For Summary Judgment and to Strike The Affidavit of Peter Dus by mailing same to Christopher R. Drury, Esq., Pierce Atwood LLP, One Monument Square, Portland, ME 04101, by first class mail, postage prepaid.

  
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Jack E. Houghton, Jr.